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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,096	06/08/2006	Kimio Tada	062626	1488
38834	7590	06/10/2009		
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP			EXAMINER	
1250 CONNECTICUT AVENUE, NW				HIJAZ, OMAR F
SUITE 700			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20036			3633	
			MAIL DATE	DELIVERY MODE
			06/10/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/582,096	TADA, KIMIO	
	<b>Examiner</b>	<b>Art Unit</b>	
	OMAR HIJAZ	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 April 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 2 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 2 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 March 2009 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

The Amendment filed on April 15, 2009 has been entered. Claims 1 and 2 have been amended, and claim 3 has been previously cancelled. Claim 4 has been previously withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected invention Group II. Election was made without traverse in the reply filed on December 12, 2008. Therefore, claims 1 and 2 are now pending in the application.

### ***Response to Amendment***

1. The previous claim objections are withdrawn in light of Applicant's amendments.
2. The previous drawing objections are withdrawn in light of Applicant's amendments.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Millar (UK Patent No. GB 2,302,343 ) in view of Schmidt (U.S. Patent No. 4,951,434) and further in view of Bott (U.S. Patent No. 6,082,067).

As per claim 1, Millar teaches a pre-cast concrete block for constructing a staircase (precast reinforced concrete step; abstract), comprising a horizontal stepping surface (as illustrated, the step has a horizontal stepping surface; figure 1A below), a

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rise surface perpendicular to the stepping surface (as illustrated, the step has a rise surface which is perpendicular to the stepping surface; figure 1A below), and a rear surface (as illustrated, the step has a rear surface; figure 1A below); the rear surface having a recess for reducing the weight of the block (as illustrated, the rear surface is hollowed out; figure 1A below; this will reduce the weight of the step), the recess having round parts, with a specified radius at inner corner parts of the recess (as illustrated, the step has rounded surfaces at the inner corner parts; figure 1A below); wherein the round parts form a partially cylindrical recessed surface (a partial shape of a cylinder is curvilinear whose arc can range anywhere between 0 and 360 degrees; the rounded surfaces shown in figure 1A below can be described as partially cylindrical to a person having ordinary skill in the art; figure 1a below).

Millar fails to disclose the step is formed in a triangle pillar with a rear surface which connects diagonally the stepping surface and the rise surface at respective edges thereof.

Schmidt discloses a pre-formed stair construction, which is triangular in cross section (figure 1), and with a rear surface which connects diagonally the stepping surface and the rise surface at respective edges thereof (as illustrated, the rear surface connects diagonally at the intersection of both the stepping surface and the rise surface; figure 1).

Therefore from the teaching of Schmidt, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the stair of Millar to

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include a triangular shaped stair with a diagonal-shaped rear section as taught by Schmidt in order to be installed on slanted surfaces.

In addition, Millar discloses side surfaces (figure 1A below), but fails to disclose displacement prevention grooves in respective side surfaces of the block.

Bott discloses concrete block structures with recesses 45 and 22 in the side edges of the blocks (figure 2).

Therefore from the teaching of Bott, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the stair of Millar to include recesses in the side edges as taught by Bott in order to prevent displacement when stacked to adjacent blocks.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Millar (UK Patent No. GB 2,302,343 ) in view of Schmidt (U.S. Patent No. 4,951,434) and in view of Bott (U.S. Patent No. 6,082,067), and further in view of Buffaloe (U.S. Patent No. 1,985,143).

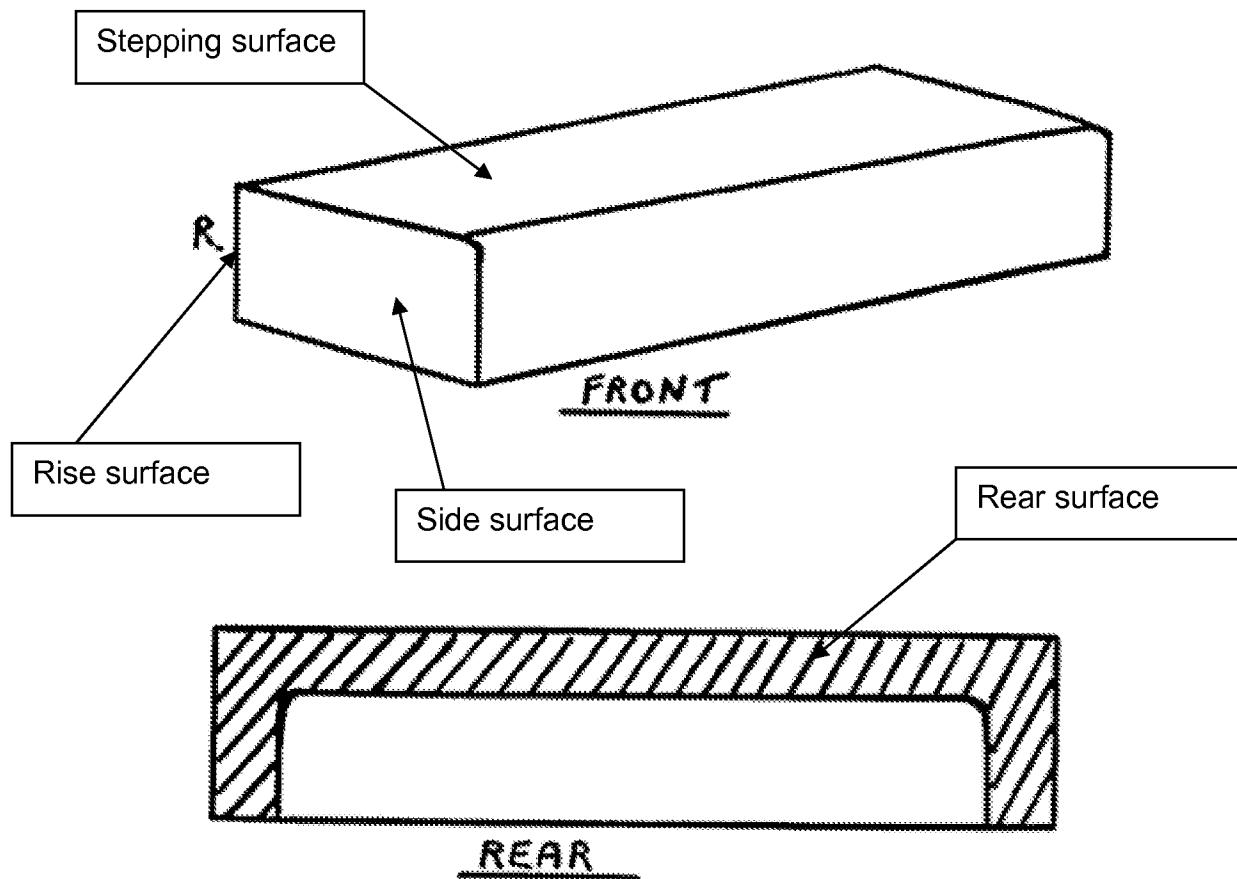
As per claim 2, the Millar, Schmidt, and Bott combination fails to disclose another recess for reducing the weight of the block in the rise surface.

Buffaloe discloses a precast concrete step (title) with a depressed portion 9 on a bottom portion of the stair.

Therefore from the teaching of Buffaloe, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the stair of the Millar, Schmidt, and Bott combination to include a recess in a surface of the stair as

taught by Buffaloe because it provides for a comparatively light construction (page 1, lines 13-17).

**FIGURE 1A**



***Response to Arguments***

6. Applicant's amended claims and arguments have been considered but are not persuasive. Applicant argues that primary reference Millar does not disclose the following: "rectangular pillar" and "rear surface parallel to top surface" however these recitations are not in the claims. In addition, applicant argues that there is a lack of

recess in the rear surface “for reducing the weight of the block”. However Millar discloses a recess and it is important to note that the intended use language holds little patentable weight. In addition, applicant argues that there are no displacement prevention grooves. However this is taught in combination with secondary reference Bott.

***Conclusion***

7. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Brian E. Glessner/  
Primary Examiner, Art Unit 3633